

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN DAN BUMPHUS, JR.,

Plaintiff,

vs.

UNIQUE PERSONNEL CONSULTANTS, et.
al

Defendants.

Case No. 16-cv-312-SMY-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Doc. 3) and Motion for Service of Process at Government's Expense (Doc. 4). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious or fails to state a claim. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). When assessing a petition to proceed *in forma pauperis*, a district court should inquire into the merits of the claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

Based on the documentation provided by Plaintiff, the Court is satisfied that he is indigent. The Court has also conducted a preliminary review of Plaintiff's Complaint (Doc. 2) and finds that it sets forth sufficient facts to state a plausible claim. Accordingly, Plaintiff's Motion to Proceed *in forma pauperis* and Motion for Service of Process at Government's Expense are **GRANTED**. However, that should it become apparent that the action is frivolous or malicious at any time in the future, the Court may dismiss the case pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

Plaintiff having been granted leave to proceed *in forma pauperis*, the Court must order service of process by a United States Marshal or Deputy Marshal or other specially appointed person. Fed. R. Civ. P. 4(c)(3). The Court **DIRECTS** the Clerk of Court to prepare and issue, for each named defendant, Form AO 440, Summons in a Civil Action, to Plaintiff and enclose blank USM-285 forms for each named defendant. If Plaintiff wishes the United States Marshals Service to serve process in this case, the Court **DIRECTS** Plaintiff to provide to the United States Marshals Service the summons issued, the appropriately completed USM-285 forms and sufficient copies of the complaint for service.

The Court further **DIRECTS** the United States Marshal, upon receipt of the aforementioned documents from Plaintiff and pursuant to Federal Rule of Civil Procedure 4(c)(3), to serve a copy of summons, complaint and this order upon the defendants in any manner consistent with Federal Rule of Civil Procedure 4, as directed by Plaintiff. Costs of service shall be borne by the United States.

IT IS SO ORDERED.

DATED: April 14, 2016

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE